

ORDINANCE NO. 2008 - 050

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ATLAS (FLUA) FOR THE **SEMINOLE / SOUTHERN COMMERCIAL III (LGA 2008-023)** PRIVATELY INITIATED AMENDMENT, MODIFYING PAGE 60 OF THE FLUA BY CHANGING THE FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 64.48 ACRES OF LAND, GENERALLY LOCATED ON THE NORTHWEST CORNER OF SEMINOLE PRATT WHITNEY ROAD AND SOUTHERN BOULEVARD, FROM RURAL RESIDENTIAL, ONE UNIT PER TEN ACRES (RR-10) TO COMMERCIAL LOW WITH AN UNDERLYING RURAL RESIDENTIAL ONE UNIT PER FIVE ACRES (CL/RR-5) WITH CONDITIONS; AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on June 6 & 27, and July 11, 2008 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on July 23, 2008 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated October 7, 2008 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, the written comments submitted by the Department of Community Affairs contained objections to the amendment contained in this ordinance;

WHEREAS, on December 3, 2008 the Palm Beach County Board of County Commissioners held a public hearing to review the written comments submitted by the Department of Community Affairs and to consider adoption of the amendments; and

WHEREAS, the Palm Beach County Board of County Commissioners has determined that the amendment satisfies the concerns addressed in the Department of Community Affairs' "Objections, Recommendations and Comments Report" and comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulations Act.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Part I. Amendments to the Future Land Use Atlas of the Future Land Use Element of the 1989 Comprehensive Plan

The following amendment to the Future Land Use Atlas is hereby adopted and attached to this Ordinance as Exhibit 1:

1. Future Land Use Atlas page 60 is amended as follows:

Application: Seminole/Southern Commercial III (LGA 2008-023)

Amendment: From Rural Residential, 1 unit per 10 acres (RR-10) to Commercial Low with an underlying Rural Residential 1 unit per 5 acre (CL/RR-5);

Location: On the northwest corner of Seminole Pratt-Whitney Road and Southern Boulevard;

Size: Approximately 64.48 acres;

Conditions: Development of the site under the Commercial Low Designation is subject to the following conditions:

1. Development of the site shall be limited to a maximum of 161,500 square feet of non-residential uses and 15 residential units, 3 of which shall be Workforce Housing.
2. Building permits for no more than 46,500 square feet of general commercial, the equivalent of 211 peak hour trips, may be issued until construction commences on the south approach of the intersection of Southern Boulevard and Big Blue Trace to provide for dual left turn lanes, one through lane and dual right turn lanes. In the event that a traffic concurrency study demonstrates that this improvement is not required, this phasing condition shall be superceded by the phasing conditions imposed at the time of traffic concurrency approval.
3. If funding of the improvement referenced in Condition #2 above has not been assured by the time of concurrency application for this project and the property owner has not demonstrated by means of a traffic concurrency study approved by the County Engineer that this improvement is not required, the property owner shall be solely responsible for assuring funding of the aforementioned improvement.
4. The site plan shall provide for a minimum of 10 acres of contiguous open space located within the northern portion of the site, excluding buffers, and to be maintained in perpetuity with the development.
5. The site shall be rezoned and developed in the form of a Traditional Marketplace Development (TMD).
6. For all non-residential and commercial uses, no single tenant shall occupy more than 65,000 square feet.

Part II. Repeal of Laws in Conflict

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Part III. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Part IV. Inclusion in the 1989 Comprehensive Plan

The provision of this Ordinance shall become and be made a part of the 1989 Palm Beach County Comprehensive Plan. The Sections of the Ordinance may be renumbered or relettered to accomplish such,

and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Part V. Effective Date

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever is applicable. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 3rd day of December, 2008.

ATTEST: *J. R. Bock* PALM BEACH COUNTY, FLORIDA,
SHARON R. BOCK, CLERK BY ITS BOARD OF COUNTY COMMISSIONERS
& COMPTROLLER *John F. Koons*

By *Judith Costine* John F. Koons
Deputy Clerk John F. Koons, Chairman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

John F. Koons
COUNTY ATTORNEY

Filed with the Department of State on the 10th day of
December, 2008.

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EXHIBIT 1

A. Future Land Use Atlas page 60 is amended as follows:

Amendment No.: Seminole /Southern Commercial III (LGA 2008-023)

Amendment: From Rural Residential, 1 unit per 10 acres (RR-10) to Commercial Low with an underlying Rural Residential 1 unit per 5 acres (CL/RR-5)

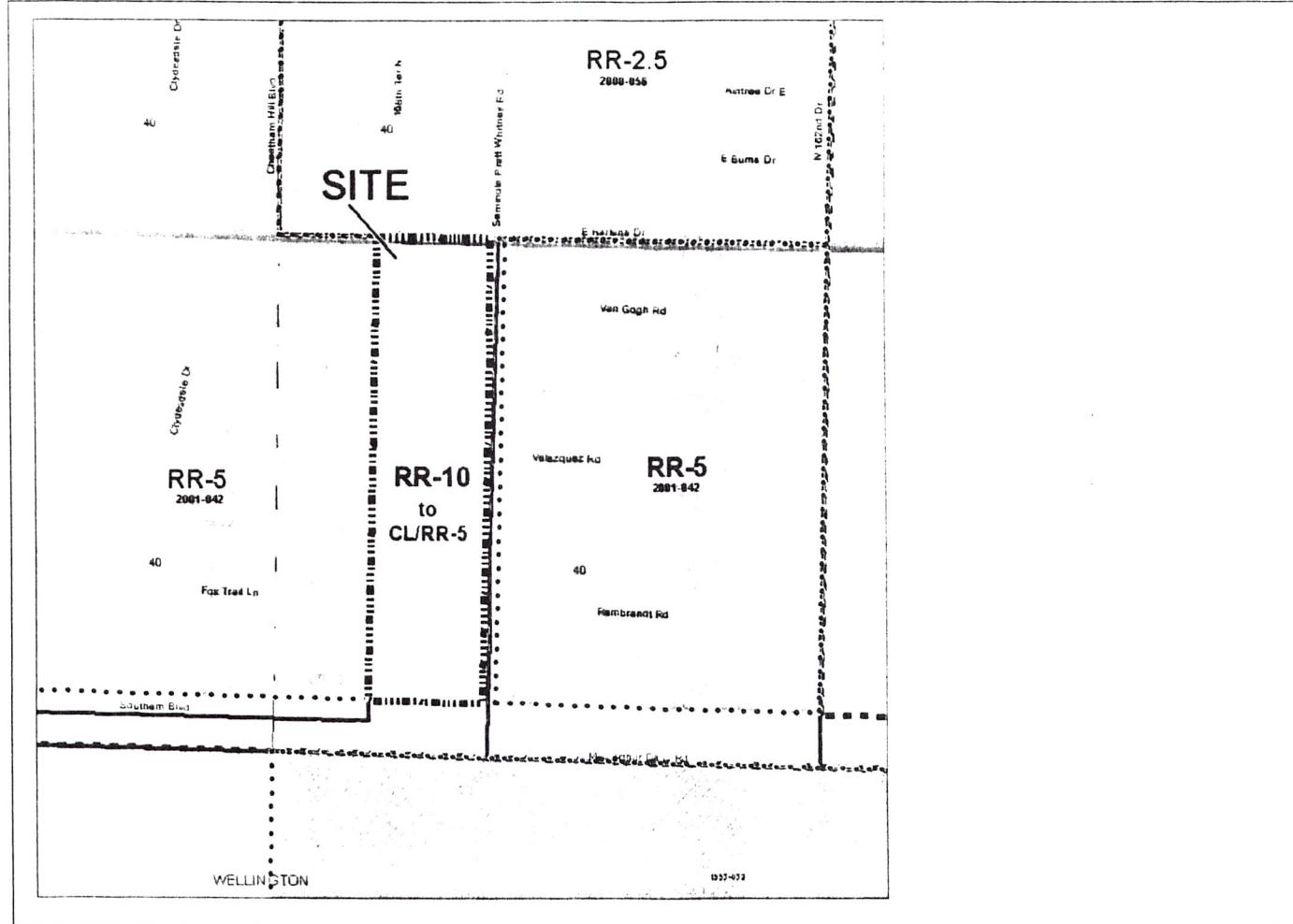
Location: Northwest corner of Seminole Pratt Whitney Road and Southern Boulevard

Size: Approximately 64.48 acres

Property No.: 00-40-43-36-00-000-3020

Conditions: Development of the site under the Commercial Low Designation is subject to the following conditions:

1. Development of the site shall be limited to a maximum of 161,500 square feet of non-residential commercial uses and 15 residential units, 3 of which shall be Workforce Housing.
2. Building permits for no more than 46,500 square feet of general commercial, the equivalent of 211 peak hour trips, may be issued until construction commences on the south approach of the intersection of Southern Boulevard and Big Blue Trace to provide for dual left turn lanes, one through lane and dual right turn lanes. In the event that a traffic concurrency study demonstrates that this improvement is not required, this phasing condition shall be superceded by the phasing conditions imposed at the time of traffic concurrency approval.
3. If funding of the improvement referenced in Condition #2 above has not been assured by the time of concurrency application for this project and the property owner has not demonstrated by means of a traffic concurrency study approved by the County Engineer that this improvement is not required, the property owner shall be solely responsible for assuring funding of the aforementioned improvement.
4. The site plan shall provide for a minimum of 10 acres of contiguous open space located within the northern portion of the site, excluding buffers, and to be maintained in perpetuity with the development.
5. The site shall be rezoned and developed in the form of a Traditional Marketplace Development (TMD).
6. For all non-residential and commercial uses, no single tenant shall occupy more than 65,000 square feet.



Legal Description

DESCRIPTION:

A PARCEL OF LAND SITUATE IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 80 (SOUTHERN BOULEVARD) AND WESTERLY LINE OF SEMINOLE PRATT-WHITNEY ROAD, AS RECORDED IN ROAD PLAT BOOK 4, PAGE 35 AND EXTENDING THENCE: (1) N88°29'50"W ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD 80, A DISTANCE OF 617.99 FEET TO A POINT, THENCE (2) CONTINUE ALONG THE SAID NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 80, N88°35' 10"W A DISTANCE OF 222.54 FEET MORE OR LESS TO THE WESTERLY LINE OF A 200 FOOT WIDE EASEMENT DESCRIBED IN OFFICIAL RECORD BOOK 1354, PAGE 55, THENCE (3) NO 1 °24'05"E ALONG THE SAID WESTERLY LINE OF EASEMENT, BEING ALSO THE EASTERLY LINE OF FOX TRAIL AS RECORDED IN PLAT BOOK 31, PAGE 159, A DISTANCE OF 3427.62 FEET MORE OR LESS TO THE NORTH LINE OF SAID SECTION 36, THENCE (4) S88o49'35"E ALONG THE SAID NORTH LINE OF SAID SECTION 36, A DISTANCE OF 200.00 FEET TO THE EASTERLY LINE OF SAID 200 FOOT WIDE EASEMENT, BEING ALSO CORNER TO THE LANDS FORMERLY OWNED BY FLORIDA POWER AND LIGHT COMPANY, THENCE (5) CONTINUE S88°49'35"E, ALONG THE SAID NORTH LINE OF SAID SECTION 36, A DISTANCE OF 639.08 FEET MORE OR LESS TO A POINT LYING 10 FEET WESTERLY OF THE WEST RIGHT OF WAY LINE OF SAID SEMINOLE PRATT-WHITNEY ROAD, THENCE (6) SO1°32'35"W ALONG A LINE 10 FEET WESTERLY AND PARALLEL WITH THE SAID WEST RIGHT OF WAY LINE OF SEMINOLE-PRATT WHITNEY ROAD, A DISTANCE OF 671.85 FEET, THENCE (7) S88°49'35"E, A DISTANCE OF 10.00 FEET TO THE AFOREMENTIONED WEST RIGHT OF WAY LINE, THENCE (8) SO 1 °32'35"W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 2760.31 FEET MORE OR LESS TO THE POINT OF BEGINNING. LESS THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 80 (SOUTHERN BOULEVARD) AND THE WESTERLY LINE OF SEMINOLE PRATT-WHITNEY ROAD AS RECORDED IN ROAD PLAT BOOK 4, PAGE 35; (1) THENCE N88°29150"W, ALONG THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 80, A DISTANCE OF 617.99 FEET TO A POINT; (2) THENCE CONTINUING ALONG THE SAID NORTHERLY RIGHT OF WAY LINE N88o35'10"W, A DISTANCE OF 222.54 FEET MORE OR LESS TO THE WESTERLY LINE OF A 200 FOOT WIDE EASEMENT DESCRIBED IN OFFICIAL RECORD BOOK 1354, PAGE 55;

3) THENCE NO1°24'05"E, ALONG THE SAID WESTERLY LINE OF CANAL FASEMENT BEING ALSO THE EASTERLY LINE OF FOX TRAIL AS RECORDED IN PLAT BOOK 31 PAGE 159 A DISTANCE OF 98.00 FEET MORE OR LESS TO THE NORTHERLY RIGHT OF WAY OF STATE ROAD 80 AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION 93120-2515, DATED 5/14/84 WITH REVISIONS THROUGH 9-19-89; (4) THENCE S88°35' 10"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 222.54 FEET TO THE BEGINNING OF A 49,224.67 FOOT RADIUS CURVE, CONCAVE TO THE SOUTH, HAVING A CENTRAL ANGLE OF 00°43'10"; (5) THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 618.09 FEET MORE OR LESS TO THE WESTERLY LINE OF SEMINOLE PRATT- WHITNEY ROAD AS RECORDED IN ROAD PLAT BOOK 4, PAGE 35; (6) THENCE S01°32'35"W, ALONG SAID WESTERLY LINE OF SEMINOLE PRATT-WHITNEY ROAD, A DISTANCE OF 95.07 FEET MORE OR LESS TO THE POINT OF BEGINNING. BEARINGS AS CITED HEREIN ARE BASED UPON THE WEST LINE OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 40 EAST, WHICH IS ASSUMED TO BEAR N01°03' 13"E. SAID PARCEL CONTAINS 2,081,865.44 SQUARE FEET OR 64.48 ACRES MORE OR LESS.

00-40-43-36-00-000-3020

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk and Comptroller
certify this to be a true and correct copy of the original
filed in my office on December 3, 2008

dated at West Palm Beach, FL 12/18/08
By: Diane Brown